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HUMAN RIGHTS COMMITTEE

Sixty-sixth session

SUMMARY RECORD OF THE 1754th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 July 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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The meeting was called to order at 10.40 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the sixty-sixth session of the Human Rights Committee. She believed she was speaking for all members of the Committee in expressing her regret at the resignation of Mr. Buergenthal, who had made a valuable contribution to the Committee's work.

STATEMENT BY THE DEPUTY HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Mr. RAMCHARAN (Deputy High Commissioner for Human Rights) said that the High Commissioner for Human Rights, Mrs. Robinson, who was detained by other engagements (the Conference of the Organization for African Unity at Algiers), had requested him to convey to the Committee her best wishes for the success of the sixty-sixth session. She had also expressed the hope that she would have the opportunity to meet the members of the Committee in the course of the session. On her behalf, he invited the Committee to an informal meeting with the Office of the High Commissioner in its new premises at the Palais Wilson. The Office's move to the new location had on the one hand confirmed the scope of United Nations human rights activities and on the other hand had added a new impulse to those activities on the eve of the third millennium.

3. Reviewing the historical background of the human rights instruments of the United Nations, which had been grouped together under the title of International Bill of Human Rights, he said that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights had been considered from the start as essential instruments for the promotion and protection of human rights. The two Committees created under those instruments had exercised their mandate during the difficult cold war period, which had demanded wisdom, patience and judgement. The current difficulties were related mainly to development problems, and the effective implementation of international human rights standards depended on achieving progress on that issue and on taking due account of the obstacles encountered by developing countries.

4. Generally speaking, the Office of the High Commissioner considered that the work of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights lay at the heart of the efforts by the United Nations and the international community as a whole to defend the rights of the human being. They also played an essential role in facilitating the establishment by the States parties of internal mechanisms for the promotion and protection of human rights and the adoption of constitutional, legislative, administrative, educational and other measures aimed at applying the standards enshrined in the Covenants at the national level. The follow-up mechanisms of the treaty bodies were also of particular importance. In that connection, the ILO Committee of Experts on the Application of Conventions and Recommendations, a body which played a pioneering role in monitoring the application of international labour standards, had clearly emphasized how vital it was for States, regardless of their political systems and levels of development, to fulfil their international obligations. The Office of the High Commissioner was in full agreement with that view and considered that monitoring the implementation by States parties of norms to which they had

committed themselves, in very diverse historical, political, economic, social and cultural circumstances, constituted an essential task on the eve of the third millennium.

5. As far as the material difficulties encountered by the Committee in carrying out its mandate were concerned, the Office of the High Commissioner was fully aware of the situation. The same problems arose throughout the Organization, which was being asked to do more and more with less and less resources. He had recently submitted to the appropriate departments the Office's draft programme budget for the 2000-2001 biennium, in which Mrs. Robinson, in consultation with the Committee, had requested funding for an additional post in the communications processing section and another in the section responsible for follow-up activities. The Advisory Committee on Administrative and Budgetary Questions and the Committee for Programme and Coordination held out little hope, however, that those requirements could be met in the current climate of budget stringency. Meanwhile, Mrs. Robinson had contacted the trust fund set up recently to find additional resources for the Committee.

6. Regarding the financing of interpretation services for the meetings of the Committee's bureau, an issue which the Chairperson had raised at the eleventh meeting of the Chairpersons of the Treaty Bodies, the Office had decided, in view of the difficulties encountered by the conference services in meeting that request, to finance from its own budget the cost of interpretation at the three meetings of the Committee bureau during the current session.

7. Concerning the processing of communications received under the Optional Protocol, he considered that all individuals who submitted their cases to the United Nations had the right to have them examined. Every effort should therefore be made to improve the current situation, so as to overcome the backlog and consider communications more promptly in future. In addition, the Office was keen to find ways of making the Committee's documents available on time in all the working languages.

8. He welcomed the recent but much delayed publication, in the series of official documents of the General Assembly of the second volume of the Committees report on its fifty-second, fifty-third and fifty-fourth sessions (A/50/40), and was pleased to say that the second volume on the fifty-fifth, fifty-sixth and fifty-seventh sessions (A/51/40) would be published shortly. Those documents reflected the importance of the Committee's work, as they contained the decisions taken under the Optional Protocol (communications) and were very useful to researchers, academics and other human rights specialists.

9. Lastly, the High Commissioner for Human Rights was currently examining the possibility of augmenting the resources of the treaty bodies through voluntary funds. The treaty bodies played a unique role in helping States parties to set up structures for the promotion and protection of human rights. The Office was moreover considering publishing a document covering the essence of the Covenant, the Committee's legal interpretations and its general comments. The purpose of the document would be to make States parties aware of the importance of implementing the Covenant, within the framework of a more

global strategy to promote human rights, the maintenance of peace and development. He invited the Committee to reflect on the matter during the current session.

10. The CHAIRPERSON thanked the Deputy High Commissioner for Human Rights. As he had rightly stated, the Committee's work lay at the heart of the system of human rights protection. If the heart stopped, the whole system broke down. It was absolutely vital, therefore, to strengthen the secretariat in support of the Committee's work. She hoped that the Deputy High Commissioner's comforting words would lead to some real solutions for the current difficulties.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/138)

11. The agenda (CCPR/C/138) was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

12. The CHAIRPERSON invited Committee members to adopt the programme of work they had before them, in an informal document in English only. The date needed adding on which the Committee would adopt the draft lists of issues concerning the reports scheduled for consideration at the next session.

13. It was so decided.

14. Mr. YALDEN (Chairman and Rapporteur of the pre-sessional Working Group) said that the Working Group, consisting of Lord Colville, Ms. Evatt, Mr. Kretzmer, Ms. Medina Quiroga, Mr. Pocar, Mr. Solari Yrigoyen, Mr. Wieruszewski and himself, had held nine meetings between 5 and 9 July 1999. He wished to take the opportunity to thank the secretariat for its support at a time of heavy work demands.

15. Regarding the communications submitted under the Optional Protocol, the Working Group had adopted two decisions in favour of the admissibility of communications, five recommendations in favour of the inadmissibility and eight recommendations concerning the Committee's findings.

16. Regarding the questions concerning article 40 of the Covenant, the Working Group had established the list of issues to be taken up in connection with the fourth periodic reports of Mexico, Poland and Romania, which would be considered during the current session. It had also drawn up draft lists of issues for the fourth periodic reports of Morocco and Norway and the second periodic report of the Republic of Korea, which the Committee would be considering at its sixty-seventh session. He suggested that the Committee should proceed without delay to adopt the draft lists of issues for the reports to be considered at the current session and later on in the session the draft lists for the reports to be considered at the sixty-seventh session. Regarding consideration of the initial report of Cambodia, scheduled for the current session, he reminded the Committee that it had adopted the relevant list at its sixty-fifth session. That was also the case for the third periodic report of Cameroon, which would be considered at the sixty-seventh session. The Working Group had not been able to adopt draft lists, however, for the reports of Kyrgyzstan, Venezuela and Yugoslavia, as

the reports had not been available at the time in the right languages. The Committee thus still had to decide when it would consider those reports.

17. The Working Group had discussed ways of implementing the Committee's recent decision to send the list of issues to the States parties concerned during the session preceding that in which their report would be considered. The secretariat was planning to send all States parties a note informing them of the Committee's new approach in that respect.

18. Lastly, the Working Group had taken note of the country analysis prepared by the secretariat for Norway and had agreed that such a document was useful. The Committee would need to decide whether it wished the secretariat to prepare such documents systematically.

19. The CHAIRPERSON said that the initial report of Kuwait should in principle be considered at the sixty-eighth session in New York.

20. She then invited Committee members to adopt the draft lists of issues prepared by the Working Group, starting with Poland (CCPR/C/66/Q/POL/1/Rev.1 [Future]).

Draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Poland (CCPR/C/Q/POL/1/Rev.1 [Future])

21. Lord COLVILLE, introducing the draft, said that the Working Party had tried to make the list as concise as possible. It had taken account of all the elements brought to its attention by non-governmental organizations. In Poland, the situation was generally satisfactory. It was very heartening that Poland had a Commissioner of Citizens' Rights who, as a former member of the Human Rights Committee, knew the situation very well. Unusually, he exercised not only advisory but also executive authority and could refer violations directly to the Constitutional Court. Through his actions, numerous problems had already been solved.

22. The CHAIRPERSON invited Committee members to consider the draft paragraph by paragraph.

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Paragraph 1

23. Mr. AMOR said that the concept of invalidation used in the second question of paragraph 1 referred to a very precise legal situation. Courts were by no means able to invalidate laws in all legal systems. Therefore he proposed that the word "invalidate" be replaced by "oppose", which would be more neutral.

24. Lord COLVILLE said that he understood Mr. Amor's concern but that the Committee wished to know whether the Courts had the power to invalidate laws incompatible with the Covenant, and not merely to oppose them.

25. Mr. ZAKHIA said that a compromise would be to add the words "or oppose" at the end of the sentence.

26. Mr. LALLAH said that, given the diversity of legal systems, the Committee risked complicating matters by trying to be too precise. It might be better to leave the wording of the question as it was and to let the Polish delegation draw the necessary distinctions.

27. Ms. CHANET proposed that the question be formulated in a more neutral manner by asking what powers the courts had in cases where laws were incompatible with the provisions of the Covenant.

28. The CHAIRPERSON said that if there were no objections she would take it that the Committee members agreed with Ms. Chanet's proposal.

29. It was so decided.

30. Paragraph 1, as amended orally, was adopted.

Paragraphs 2, 3 and 4

31. Paragraphs 2, 3 and 4 were adopted.

Non-discrimination and equality of the sexes (arts. 3 and 26)

Paragraph 5

32. Mr. AMOR proposed adding the following question to paragraph 5: "Does religion affect the real condition of women in Poland?"

33. Mr. ZAKHIA while appreciating the shrewdness of Mr. Amor's proposal, noted that the influence of religion was of interest to the Committee only insofar as it affected the laws of the country. He proposed instead that the question be worded more specifically to ask what influence religion had amongst others on personal status.

34. Mr. LALLAH preferred to leave paragraph 5 as it was. However, that did not prevent Mr. Amor from raising the question orally with the Polish delegation if he so wished.

35. Mr. YALDEN said that he would agree with the addition of the question proposed by Mr. Amor if there was a special problem in Poland's case. Otherwise, he would prefer to leave the draft as it stood.

36. Lord COLVILLE said that the only specific issue worth raising, namely abortion, was already on the list. If Mr. Amor wished to ask further questions relating to the effects of religion on the condition of women, he would be happy to add them to the draft, but for the time being he could see none.

37. Mr. AMOR said that the Covenant secured equality between women and men. It was nevertheless true that in practice women were the victims of many-faceted discrimination based on religious considerations. In view of the

Committee's mandate under the Covenant, such a situation could not be ignored, and it would be useful in future to include in all the lists of issues a question focusing on the condition of women in relation to religion in different countries.

38. Mr. SOLARI YRIGOYEN said that all religions influenced the situation of women, but that the influence varied from one country to another and one religion to another. It would therefore be of no use to ask all States the same question. It would be preferable to raise the issue orally in order to be able to take account of individual circumstances.

39. The CHAIRPERSON said there would certainly be other opportunities to discuss the matter. She felt that Committee members would prefer Mr. Amor's question to be put orally. If there were no objections, she would consider that the Committee wished to leave paragraph 5 unchanged.

40. Paragraph 5 was adopted.

Paragraphs 6 and 7

41. Paragraphs 6 and 7 were adopted.

Right to life (art. 6)

Paragraph 8

42. Paragraph 8 was adopted.

Right to liberty and security of person, treatment of prisoners and other detainees (arts. 7, 9, 10 and 13)

Paragraph 9

43. Paragraph 9 was adopted.

Paragraph 10

44. Ms. CHANET said that the subject of paragraph 10 of the list was covered in paragraphs 67 to 81 of the report, not paragraphs 65 to 81. The question should be amended accordingly.

45. Paragraph 10, as amended orally, was adopted.

46. Ms. CHANET said that, in view of the changes introduced in the Code of Criminal Procedures in 1996, it would be worth including a question in the list concerning the progress made to date with the reform of the pre-trial detention system, and more precisely on whether pre-trial detention was decided exclusively by the judge or whether it was subject to his supervision, whether a detainee was guaranteed the assistance of a lawyer, and what the situation was regarding the length of pre-trial detention.

47. Lord COLVILLE said he could see no difficulty with the inclusion of Ms. Chanet's proposed question in the list of issues. However, since the

report of the State party was in many respects out of date and since a new Code of Criminal Procedure had been introduced, it would be worth checking whether the information concerned was perhaps already available.

48. The CHAIRPERSON said that Committee members seemed to agree to the addition of Ms. Chanet's question to the list.

49. It was so decided.

Paragraphs 11 and 12

50. Paragraphs 11 and 12 were adopted.

Right to a fair trial (art. 14)

Paragraph 13

51. Paragraph 13 was adopted.

Right to privacy (art. 17)

Paragraphs 14 and 15

52. Paragraphs 14 and 15 were adopted.

Right to freedom of expression (art. 19)

Paragraphs 16 and 17

53. Paragraphs 16 and 17 were adopted.

Freedom of religion (art. 18)

Paragraph 18

54. Mr. AMOR said that the first question as it stood was of no practical use. Since it added nothing to the following question, he proposed deleting it.

55. Paragraph 18, as amended orally, was adopted.

Protection of the child (art. 24)

Paragraph 19

56. Paragraph 19 was adopted.

Right to participate in the conduct of public affairs (art. 25)

Paragraph 20

57. Paragraph 20 was adopted.

Right to equality and non-discrimination; rights of persons belonging to minorities (arts. 26 and 27)

Paragraph 21

58. Paragraph 21 was adopted.

Paragraph 22

59. Mr. YALDEN said that, as the Committee was particularly concerned by the situation of the Roma, it would be useful to add the words "notably the Roma" at the end of the paragraph.

60. Paragraph 22, as amended orally, was adopted.

Dissemination of information about the Covenant (art. 2)

Paragraph 23

61. Paragraph 23 was adopted.

62. The draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Poland (CCPR/C/66/Q/POL/1/Rev.1 [future]), as amended orally, was adopted.

Draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Romania (CCPR/C/66/Q/ROM/1/Rev.1 [future])

Constitutional and legal framework within which the Covenant is implemented (arts. 2 and 4)

Paragraphs 1 and 2

63. Paragraphs 1 and 2 were adopted.

Paragraph 3

64. Mr. LALLAH proposed replacing "application of human rights principles" with "application of human rights obligations undertaken by the State party under the Covenant".

65. Paragraph 3, amended as proposed by Mr. Lallah, was adopted.

Gender equality in the enjoyment of rights and the principle of non-discrimination (arts. 3 and 26)

Paragraphs 4, 5, 6 and 7

66. Paragraphs 4, 5, 6 and 7 were adopted.

Right to life and prevention of torture (arts. 6 and 7)

Paragraph 8

67. Paragraph 8 was adopted.

Paragraph 9

68. Mr. SCHEININ proposed replacing the term "citizens" with "individuals".

69. Paragraph 9, amended as proposed by Mr. Scheinin, was adopted.

Paragraph 10

70. Paragraph 10 was adopted.

Protection against arbitrary interference with privacy, family, home or correspondence (art. 17)

Paragraphs 11 and 12

71. Paragraphs 11 and 12 were adopted.

Freedom of thought, conscience and religion (art. 18)

Paragraph 13

72. After an exchange of views between Mr. SCHEININ and Mr. YALDEN concerning the possibility of including a question about alternative solutions to military service, it was agreed that the issue would be raised orally.

73. Mr. LALLAH further proposed replacing the first sentence of paragraph 13 with the following: "What are the implications of registration or non-registration for the exercise of religious freedom?"

74. Paragraph 13, as amended orally, was adopted.

Freedom of expression (art. 19)

Paragraph 14

75. Paragraph 14 was adopted.

Freedom of assembly and association (arts. 21 and 22)

Paragraph 15

76. Paragraph 15 was adopted.

Protection of children (art. 24)

Paragraph 16

77. Paragraph 16 was adopted.

Non-discrimination and protection of minorities (arts. 26 and 27)

Paragraphs 17 and 18

78. Paragraphs 17 and 18 were adopted.

Dissemination of information about the Covenant (art. 2)

Paragraph 19

79. After an exchange of views between Mr. POCAR, Lord COLVILLE and Ms. EVATT regarding repetitions in paragraphs 3 and 19, the CHAIRPERSON said that the second part f the sentence in paragraph 3 would be deleted and that paragraph 19 was adopted as it stood.

80. The draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Romania (CCPR/C/66/Q/ROM/1/Rev.1 [FUTURE]), was adopted, subject to the agreed oral amendments.

Draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Mexico (CCPR/C/66/Q/MEX/1/Rev.2 [FUTURE])

The right to self-determination (art. 1)

Paragraph 1

81. Paragraph 1 was adopted.

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Paragraphs 2, 3 and 4

82. Paragraphs 2, 3 and 4 were adopted.

Non-discrimination and equality of the sexes (arts. 3 and 26)

Paragraphs 5 and 6

83. Paragraphs 5 and 6 were adopted.

Right to life, liberty and security of person, treatment of prisoners and other detainees, right to a fair trial (arts. 6, 7, 9, 10 and 14)

84. Paragraphs 7, 8, 9, 10, 11, 12, 13 and 14 were adopted.

Freedom of movement and the rights of aliens (arts. 12 and 13)

Paragraph 15

85. Paragraph 15 was adopted.

Freedom of religion (art. 18)

Paragraph 16

86. Mr. AMOR asked why the question of conscientious objectors was raised in the list of issues to be taken up in connection with the consideration of the fourth periodic report of Mexico when it did not appear in the list of issues to be taken up in connection with the consideration of the fourth periodic report of Romania.

87. The CHAIRPERSON replied that the fourth periodic report of Mexico contained contradictory information in that respect and clarification was necessary.

88. Mr. LALLAH proposed that the title of the paragraph be modified as follows: "Freedom of conscience and religion".

89. Paragraph 89 was adopted, subject to Mr. Lallah's proposed amendment.

Freedom of expression

Paragraph 17

90. Paragraph 17 was adopted.

Protection of the family and children (arts. 23 and 24)

Paragraph 18

91. Paragraph 18 was adopted.

Non-discrimination and protection of minorities (arts. 26 and 27)

Paragraphs 19 and 20

92. Paragraphs 19 and 20 were adopted.

Dissemination of information about the Covenant (art. 2)

Paragraph 21

93. Paragraph 21 was adopted.

The draft list of issues to be taken up in connection with the consideration of the fourth periodic report of Mexico (CCPR/C/66/Q/MEX/1/Rev.2 [FUTURE]), as orally amended, was adopted.

94. Ms. EVATT wished to know when the lists of issues to be taken up in connection with the reports to be considered in October would be ready.

95. The CHAIRPERSON replied that the translations of the lists would be ready by 14 July 1999.

96. Mr. AMOR asked whether the Cambodian delegation would be present for the consideration of the initial report of Cambodia.

97. The CHAIRPERSON said that the Cambodian Government had given assurances that it would send a delegation.

Draft Consolidated Guidelines for State Reports under the International Covenant on Civil and Political Rights (CCPR/C/GUI/1)

98. Lord COLVILLE, the author of the document, introduced the latest version of the draft consolidated guidelines. He said he had completely reorganized the text, incorporating the very helpful modifications proposed by the other members of the Committee. The version before the Committee, which had been the object of very broad consultations, still called for a number of comments. Firstly, the only reference to other documents which had been kept appeared in section 3 and concerned the core document (a code beginning with HRI/CORE). The core document constituted the initial part of the report that a State party was required to submit under the various international human rights instruments to which it was a party. Secondly, some Committee members had suggested inserting before section 2 of the draft a note intended to call States parties' attention to the Committee's general comments, in order to ensure that they were taken into account in the preparation of reports.

99. Thirdly, with regard to the periodic reports that followed the initial report (section 7), the prevailing opinion among the Committee seemed to be that those periodic reports submitted after the initial report should take as their starting point the concluding observations issued by the Committee following the initial report, and that there was therefore no reason to draw a distinction between the second report and subsequent reports. If there were no concluding observations, the summary records of the Committee's consideration of the previous report could serve as the starting point (see section 8: Points for guidance). In short, the new system would considerably simplify the whole task of preparing reports for States parties, since there would be only two sets of rules to follow, one for initial reports and one for subsequent reports.

100. The CHAIRPERSON invited the Committee to consider the draft consolidated guidelines paragraph by paragraph.

A. Initial reports

Introduction

101. Mr. POCAR proposed that the word "initial" in the first sentence be moved to the end of the second sentence in the paragraph.

102. Lord COLVILLE agreed.

2. The purpose of the report

103. Mr. LALLAH said that States parties should be asked in that section to describe any factors or difficulties hindering the implementation of the Covenant.

104. Lord COLVILLE said that the factors and difficulties were mentioned in paragraph 4 of section 4 under the heading "Contents of the Initial Report". Mentioning them under "Purpose of the Report" might alter the balance of the document. He would, however, abide by the Committee's decision.

105. Ms. EVATT felt that section 2 should be left as it was and that it was useless merely to repeat the text of article 40 of the Covenant. Burdening the text of item 2 unduly might end up missing the point.

106. Mr. AMOR endorsed the views of Ms. Evatt and Lord Colville.

107. Mr. POCAR wished to change the last subparagraph of section 2 to call for an account of the progress already made in the enjoyment of Covenant rights by "the people of the country or within its jurisdiction".

108. The CHAIRPERSON took it that the Committee was in favour of amending section 2 as suggested by Mr. Pocar, without adding a reference to factors and difficulties.

3. The core document

109. Mr. AMOR suggested making the wording of paragraph 2 of section 3 more flexible in order to leave the Committee the option of requesting additional information or not, and he proposed stating that the Committee might not necessarily require additional information.

110. Lord COLVILLE could see no difficulty with replacing the word "will" by the word "may".

111. The CHAIRPERSON said that section 3 would be amended as suggested by Lord Colville.

4. Contents of the Initial Report

112. Ms. CHANET wondered whether it was really necessary to say in sub-heading (a) of paragraph 1 that "these Guidelines should be taken fully into account", for that would seem to go without saying.

113. Lord COLVILLE said that in his view the attention of those responsible for compiling a State party's report should be drawn to the guidelines, but he was willing to admit that such a reminder might be placed elsewhere in the text, for example at the beginning.

114. Mr. YALDEN agreed with Lord Colville.

115. Mr. AMOR also considered that it was worth keeping the message conveyed in paragraph 1 (a), but thought that it should be formulated more strongly. He proposed the wording: "When preparing the report, the States parties should take particular account of the following guidelines".

116. Lord COLVILLE offered to alter the text so as to place at the beginning of the draft guidelines a paragraph stating that the guidelines should be followed by States parties in the preparation of initial and all subsequent periodic reports, and to delete paragraph 1 (a) of section 4.

117. The CHAIRPERSON noted that the Committee agreed.

118. Ms. EVATT suggested adding a mention of the institutions responsible for examining complaints of violations to subparagraph (d).

119. Lord COLVILLE said that he would work out a new wording for paragraph 1 (d) with Ms. Evatt.

120. The CHAIRPERSON said that the Committee would continue its consideration of the draft consolidated guidelines at its following meeting.

The meeting rose at 1.05 p.m.